

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present amendments and following discussion is respectfully requested.

Claims 1-21 are pending. Claims 8, 10, 11, and 14 are amended. Support for the amendments to Claims 8 and 10 can be found in numbered paragraphs [0029], [0062], and [0066] of the published application, for example. Support for the amendments to Claims 11 and 14 is self-evident as dependent Claims 11 and 14 are rewritten in independent form. No new matter is added.

In the outstanding Office Action, Claims 8, 10, 20, and 21 were rejected under 35 U.S.C. § 102(b) as anticipated by Kapralis et al. (U.S. Patent No. 4,580,547, herein “Kapralis”). Claims 1-7, 9, and 15-19 were allowed. The allowability of Claims 10-14 and 21 indicated in the previous Office Action was withdrawn. Claims 11-14 were indicated as reciting allowable subject matter.

Applicants note with appreciation the allowance of Claim 1-7, 9, and 15-19 and the indication that Claims 11-14 recite allowable subject matter. Claims 11 and 14 are rewritten in independent form in accordance with the indication of allowable subject matter. Accordingly, Applicants respectfully submit that Claims 11-14 are in condition for allowance.

Regarding the rejection of Claims 8, 10, 20, and 21 as anticipated by Kapralis, that rejection is respectfully traversed by the present response.

Amended independent Claim 8 recites:

A hair warmer, comprising:
a sheet including an outermost base sheet adapted to contact hair when wrapped, the outermost base sheet comprising water resistant material, the sheet further including a heating part configured to be wrapped around at least a portion of hair so that the heating part contacts the at least a portion of hair, said outermost base sheet being non-removably attached to said hair warming tool,

the heating part including a gas-permeable sheet at least partially covering a heating element disposed between the gas-permeable sheet and the base sheet such that the heating element is exposed to outside air.

Accordingly, the heating part includes a gas-permeable sheet at least partially covering a heating element disposed between the gas-permeable sheet and the base sheet.

In contrast, Kapralis describes two walls (15) and (16) which contain a liquid solution (12). In describing the two walls (15) and (16), Kapralis states:

In FIGS. 1 and 2, heat producing apparatus 10 includes a flexible plastic container 11, which is generally flat and extends or is held to hang vertically. It contains a supercooled solution 12, one example being aqueous sodium acetate, as referred in U.S. Pat. No. 4,460,546. The container may consist of translucent or transparent plastic, such as PVC, polyethylene and polyethylene coated polypropylene. The opposite thin walls 15 and 16 of the container are typically bonded or heat sealed together at peripheral edge portions, as indicated at 13, whereby the solution 12 is contained against leakage. The container and solution 12 are manually deformable prior to triggering of the exothermic reaction, and during the reaction.¹

Accordingly, the walls (15) and (16) of the container hold the solution (12) in between and **prevent leakage** of the solution (12). Kapralis describes the walls (15) and (16) as formed of plastic such as PVC, polyethylene, and coated polypropylene. Applicants respectfully submit that the walls (15) and (16) are not gas-permeable. Otherwise, the liquid solution contained between the two walls (15) and (16) would evaporate. Furthermore, Kapralis states:

The buttons 17 are spaced from the edge portion 13 of the contour so that solution passageways 47 are formed between the buttons and such edge portions, whereby the solution may flow between the pockets to be well distributed in all pockets, when the container lies horizontally flat. Also, the trigger 34 to be described may pass or float between the pockets via the passageways 47, so that successive pressurization of the trigger may occur via different container wall portions, minimizing risk of wear and ruptures of the walls. Note further, that the extended zones 40 and buttons 17

¹ Kapralis, col. 2, lines 19-33.

distribute loading between the walls, and minimize risk of failure of these bonds by stress.²

Accordingly, Kapralis goes to significant effort to prevent leaks or ruptures from occurring in the container formed by the walls (15) and (16). This is because the liquid solution is necessary for the device of Kapralis to function. In other words, not only does Kapralis fail to teach or suggest that either of the walls (15) and (16) is gas-permeable, but rendering either of the sheets (15) and (16) gas-permeable would render the device of Kapralis unsuitable for its intended use due to loss of liquid via evaporation.³ Thus, Applicants respectfully submit that Kapralis fails to teach or suggest all of the features recited in amended independent Claim 8, and amended independent Claim 8 patentably distinguishes over Kapralis for at least the reasons discussed above.

Amended independent Claim 10 recites substantially similar features to those discussed above regarding amended independent Claim 8, but in method format. Accordingly, Applicants respectfully submit that amended independent Claim 10 patentably distinguishes over Kapralis for at least the reasons discussed above.

Dependent Claims 20 and 21 depend from amended independent Claims 8 and 10, respectively. Accordingly, Applicants respectfully submit that each of Claims 20 and 21 patentably distinguishes over Kapralis for at least the same reasons as the claim from which it depends does.

² Kapralis, col. 2, lines 56-68.

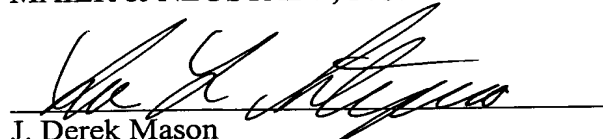
³ MPEP § 2143.01V states: V. THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE; If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

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Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



J. Derek Mason
Attorney of Record
Registration No. 35,270

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 03/06)

Lee L. Stepina
Registration No. 56,837

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